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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/800,524	03/08/2001	Kunimasa Suzuki	204078US6	5017

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EXAMINER

ZEENDER, FLORIAN M

ART UNIT PAPER NUMBER

3627

DATE MAILED: 04/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/800,524

Applicant(s)

SUZUKI ET AL.

Examiner

F. Ryan Zeender

Art Unit

3627

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 1/4/2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4-7,9-12,14-17,19 and 20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-7,9-12,14-17,19 and 20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 March 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

Claims 1-2, 4-7, 9-12, 14-17, and 19-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sharp et al. in view of Salvo et al. (US6,341,271) and Official Notice.

Sharp et al. disclose order information receiving means for receiving via a computer global network 150 at least first and second order information of merchandise (See for example Col. 1, line 56); the first and second order information being formed based on respective first and second purchase requests received via respective first and second sales channels (i.e., first and second customers; See Col. 1, lines 54-58) that use the network (See for example Col. 3, lines 14-17); and stock control means for controlling a stock of said merchandise to be distributed to the first and second sales channels based on the first and second order information.

Sharp et al. lack the specific teaching of the second purchase request being received via a second sales channel which is a point of sales location (where a new product is stored) that does not use the network; the supplier supplying the merchandise based on an actual sales condition; and the network being specifically the Internet utilizing web pages.

Salvo et al. teach an e-commerce system utilizing web pages on the Internet to receive order information and further teach that it is well known to grasp an actual sales condition (i.e., real-time needs) and supply the merchandise based on the sales condition (See for example Col. 3, lines 40-62; and Col. 7, line 38 – Col. 8, line 4).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Sharp et al. to include the supplier supplying the merchandise based on an actual sales condition, and the network being the Internet utilizing web pages, as taught by Salvo et al., in order to provide the proper inventory as needed (See for example Salvo et al., Col. 7, lines 41-42).

The Examiner takes Official Notice that it was well known in the art of commerce to make a purchase request for a new product that is to be stored in a second sales channel which is a point of sales location **(i.e., a retail location from which the owner of the retail establishment, acting as a customer, makes a purchase request from a supplier to restock his/her shelves)** that does not utilize the network **(i.e., the retail establishment uses mail, face-to-face, phone, or fax communication to make/send purchase requests)**.

*Re claims 16-20, the "first order information forming **device**" would be the computer using the network (as disclosed in Sharp et al.) and the "second order information forming **device**" would be the receiving fax machine or phone.*

Re claims 2, 3, 7, 8, 12, 13, 17, and 18: Sharp et al. in view of Salvo et al. lack the specific teaching of stopping the supply of merchandise due to the sales debut of a new product. However, it is well known in the art to stop the supply of a product when it is about to be replaced by a new product and it would have been obvious to one of ordinary skill in the art at the time of the invention to employ the step of stopping the supply of a product for a predetermined period before a new product is released, to prevent the accumulation of unwanted inventory.

Response to Arguments

Applicant's arguments received 1/4/2006 have been considered but are not persuasive. The applicant argues that the prior art does not teach storing new product in a second sales channel which is a point-of-sale location that does not use the network. The Examiner has addressed this argument in the rejection above to show how the prior art does teach the limitation.

The Applicant further argues that the use of Official Notice is not permissible as grounds for rejection and has requested citation of a reference for support of the use of Official Notice. However, the applicant has not properly traversed the use of Official Notice by clearly stating **why** (with respect to applicant's invention) the features that the Examiner states to be well known are not well known in the art. The applicant merely makes a statement that the features are not "capable of instant and unquestionable demonstration as being well-known" which does not constitute a proper traversal. The use of Official Notice remains proper and the rejections have been maintained.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to F. Ryan Zeender whose telephone number is (571) 272-6790. The examiner can normally be reached on Monday-Friday, 8am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alex Kalinowski can be reached on (571) 272-6771. The receptionist's phone number for the Technology center is (571) 272-3600.

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The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

F. Zeender
Primary Examiner, A.U. 3627
April 3, 2006


F. RYAN ZEENDER
PRIMARY EXAMINER